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1 IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

2

THE CITY OF TULSA, THE )

3 TULSA METROPOLITAN )

UTILITY AUTHORITY, )

4 )

Plaintiffs, ) No. 01 CV 0900B(X)

5 )

vs. ) VIDEOTAPED

6 ) DEPOSITION OF

TYSON FOODS, INC., )

7 COBB-VANTRESS, INC., )

PETERSON FARMS, INC., ) RONALD J. MULLIKIN

8 SIMMONS FOODS, INC., )

CARGILL, INC., GEORGE'S, )

9 INC., CITY OF DECATUR, )

ARKANSAS, )

10 )

Defendants. )

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13

14 THE VIDEOTAPED DEPOSITION OF RONALD J.

15 MULLIKIN, taken before Karen J. Eichmann,

16 Certified Shorthand Reporter and Notary Public

17 of the State of Iowa, commencing at 12:02 p.m.,

18 on the 18th day of July, 2002, at 421 West

19 Broadway, Suite 405, Council Bluffs, Iowa.

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24 Reported by: Karen J. Eichmann, C.S.R.

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1 A. Thank you.

2 Q. What is your age, please?

3 A. I'm forty-six.

4 Q. And where do you live at this time,

5 Mr. Mullikin?

6 A. My address is 1023 28th Avenue here in

7 Council Bluffs, Iowa.

8 Q. How long have you lived at that

9 address?

10 A. About 16, 17 months.

11 Q. What does your immediate family consist

12 of?

13 A. I have my wife and two stepchildren.

14 We all live at that residence.

15 Q. Is your wife employed outside the home?

16 A. No, she's not.

17 Q. Would you tell us about your

18 educational background please starting in high

19 school?

20 A. Went through high school and then

21 attended Ellsworth College at Iowa Falls, Iowa,

22 and that is the extent of formal education I

23 have.

24 Q. How many hours or how many semesters

25 were you at Ellsworth College?

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1 A. Not quite a semester.

2 Q. And your high school was where?

3 A. In Washington, Iowa.

4 Q. So your home originally was in Iowa?

5 A. Yes. Grew up in southeast Iowa.

6 Q. And tell us about your work experience

7 then after you left Ellsworth College.

8 A. Went back to work for my father, had

9 worked for my father all through school. My

10 father was in the fertilizer and chemical

11 business, worked for him for a number of years

12 before leaving employment with him and working

13 for the Garst Company in Coon Rapids, Iowa. Was

14 head of outside operations for them which meant

15 that I oversaw their fertilizer and chemical

16 plants. Worked for AgriCo Chemical which is

17 part of the Williams Company or was at that time

18 out of Tulsa. When I left AgriCo, I went to

19 work for Brayton Chemical, which is a chemical

20 distributor.

21 Q. Could you spell that for me, please?

22 A. B-r-a-y-t-o-n.

23 Q. Where are they out of?

24 A. They were out of Burlington. They have

25 since been bought out by a company by the name

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1 of Wilbur-Ellis.

2 Q. Burlington, Iowa?

3 A. Uh-huh.

4 Q. Okay.

5 A. After that worked for Strong & Strong

6 Chemical. Spent -- I left there and worked

7 about three years for Northwest Honda in

8 Bentonville, Arkansas. Went to work for

9 Wal-Mart Corporation, and after leaving Wal-Mart

10 went to work for Peterson Farms. Left Peterson

11 Farms and came back to Wal-Mart Corporation.

12 Q. Where you are today?

13 A. Yes.

14 Q. And do I understand you anticipate a

15 transfer and a move back to Arkansas with

16 Wal-Mart or Sam's Club, one or the other?

17 A. Yes.

18 Q. Fairly quickly?

19 A. Probably within the next two to three

20 weeks.

21 Q. The nature of your father's fertilizer

22 and chemical business, was that a retail

23 business dealing with farmers and industrial

24 customers or what were they?

25 A. It was dealing with primarily row crop

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1 farmers. He had one of the largest  
2 independently owned fertilizer and chemical  
3 plants in the state of Iowa.

4 Q. So he had not only the plant but the  
5 retail end of it as well?

6 A. Uh-huh.

7 Q. Is that business still in operation?

8 A. No, it's not.

9 Q. How long altogether did you work for  
10 your father's business?

11 A. Oh, I'm going to say about six years.

12 Q. And please tell me the nature of what  
13 you did while you were there.

14 A. Did soil sampling, analyze the soil  
15 samples, operated application equipment, worked  
16 with farmers to help plan what their crop needs  
17 were going to be, decide what fertilizer needs  
18 they had, what chemical needs they had. We also  
19 were involved with selling soybean and seed corn  
20 seed. So worked with farmers, really anything  
21 that had to do with an ag-type farm store we  
22 were pretty much involved with.

23 Q. What sort of soil testing did you do?

24 A. I guess I don't understand. The  
25 normal.

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1 Q. Mr. Mullikin, would there -- would  
2 there be any reason to put any more phosphorus  
3 on a field than whatever the plant was -- that  
4 was being grown in the field could use in its  
5 uptake?

6 A. From an agronomic standpoint, there  
7 wouldn't. From a growing standpoint, there  
8 wouldn't.

9 Q. And from an environmental standpoint if  
10 one was in a watershed that was already  
11 sensitive to phosphorus because of years of  
12 phosphorus application and so forth, would there  
13 be any reason to put any more than the plant  
14 could uptake?

15 MS. BARTLEY: Object to form.

16 A. The -- the answer to that is there  
17 certainly wouldn't be, but the problem goes  
18 beyond that. For the grower himself that litter  
19 has always been a source of fertilizer, and most  
20 of the time it goes on pasture. And phosphate  
21 is not one of the elements that pasture ground  
22 needs in great numbers to thrive on. It needs  
23 nitrogen. And so it was a great source for the  
24 growers to be able to put nitrogen on their  
25 fields that it needed.

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1 Q. And a side result of that was then too  
2 much phosphorus then got put on the fields?

3 MS. BARTLEY: Object to form.

4 A. That -- that's the end result.

5 Q. Is there any reason the company  
6 couldn't do something to correct that problem?

7 MS. BARTLEY: Object to form.

8 A. It is all about economics. The grower  
9 has their own fertilizer source being the  
10 litter; and because that is a source that is  
11 theirs, it doesn't cost them anything. To  
12 replace it with commercial fertilizer, it is a  
13 matter of economics.

14 Q. The commercial fertilizer could be  
15 mixed in such a way that it got the right  
16 amounts of the three elements that you  
17 mentioned; correct?

18 A. You could put straight nitrogen on it  
19 if you wanted to.

20 Q. Or any mixture, any combination of the  
21 three --

22 A. That's correct.

23 Q. -- for agronomic purposes?

24 A. That's correct.

25 Q. Is there any reason the poultry

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1 the ground and existing phosphate levels. I  
2 don't know as he was trying to replace them.  
3 Maybe he was, but that certainly wasn't my  
4 understanding.

5 Q. I guess in learning about these issues  
6 you developed some understanding of the  
7 historical practices of the companies and the  
8 growers and things like that, did you not?

9 A. To some extent.

10 Q. Even before you were there. So to your  
11 knowledge how long have growers in this area of  
12 northeast Oklahoma, northwest Arkansas been land  
13 applying chicken litter?

14 A. I can only speculate for as long as  
15 they've been growing chickens.

16 Q. So it could be for decades?

17 A. Absolutely.

18 Q. And this business of growing chickens  
19 in houses, when did that start to become  
20 prevalent?

21 A. I couldn't tell you.

22 Q. Again, a long time ago?

23 A. I would assume so.

24 Q. When did the -- if you gained any  
25 knowledge of this, when did any of the



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1 integrator industry start gaining awareness of  
2 the -- of there being a problem with excess  
3 phosphorus in watersheds?

4 MS. BARTLEY: Object to the form.

5 A. It would seem to me that it became  
6 something on their radar screen, so to speak, at  
7 about the time I went to work for Peterson  
8 Farms.

9 Q. That is what you observed with respect  
10 to Peterson anyway?

11 A. Yes.

12 Q. Did you do any research to see if in  
13 other parts of the country they had had reason  
14 to have knowledge or concerns before that?

15 A. I talked to people on the Delmarva  
16 Peninsula, talked to them; and they had a little  
17 different set of circumstances because they are  
18 extremely concentrated, have very different soil  
19 types than what we have here. But I visited  
20 with them, visited with some individuals in  
21 eastern Texas as it related to some problems  
22 that they were having in different watersheds  
23 down there. And there were some folks in I  
24 believe it was Alabama that I talked to about  
25 how long they had been doing the various things